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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/505,370	08/23/2004	Markus Scherer	255880US0PCT	7127
22850 7590 01/29/2008 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
			EXAMINER BERNSHTEYN, MICHAEL	
			ART UNIT 1796	PAPER NUMBER
			NOTIFICATION DATE 01/29/2008	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/505,370

Applicant(s)

SCHERER ET AL.

Examiner

Michael M. Bernshteyn

Art Unit

1796

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 January 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 2-8, 11-15 and 21-30.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Michael M. Bernshteyn
Patent Examiner
Art Unit 1796

Continuation of 11. NOTE: Regarding Applicants arguments that Schaubers reference is not in Applicants' field of endeavor and is not reasonably pertinent for providing dewaxing additives or a method for solvent deparaffinization of paraffinic mineral oil distillates using a dewaxing additive as claimed (page 10, 2nd paragraph), it is noted that Schauber discloses that his invention is concerned with viscosity index improving additives for lubricating oils. Lubricating oil compositions for internal combustion engines typically include polymeric additives for improving the viscosity index of the lubricating composition, that is, modifying the relationship between temperature and the viscosity of the oil composition to reduce the temperature dependence of the viscosity and to lower the 'pour point' of the composition, that is, to allow the composition to remain fluid at reduced temperature (page 1, lines 1-14). Thus, it is examiner position that Schaubers reference is clearly within Applicants' field of endeavor.

As to Applicants argument that Mueller does not disclose a mixture of dewaxing additives as claimed in claim 11 or a method in which paraffinic mineral oil distillates are deparaffinized by adding a dewaxing additive as claimed in claim 14 (page 3, 1st paragraph), it is noted that Mueller discloses a method for the solvent dewaxing of wax-containing petroleum products wherein the dewaxing aid used being a mixture of two polymers:

I) a polymer of esters of acrylic acid with C10-C40 alkanols and

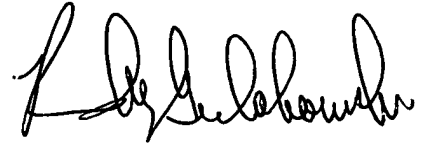
II) a polymer of esters of methacrylic acid with alkanols comprising more than 10 weight percent of branched alkanols, the weight ratio between components (I) and (II) ranging from 1:20 to 20:1, which is within the claimed range (abstract).

Both references are analogous art because they are from the same field of endeavor concerning new polymer dewaxing additives.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate two polymer dewaxing additives with the adjusted rate as taught by Mueller in Schaubers polymer dewaxing composition because the results obtained with mixtures of the polymers P1 and P2 show that the use of polyalkyl methacrylate components with moderately high degrees of branching of the alkyl groups results in significantly greater effectiveness and more pronounced synergistic effects (US'550, col. 4, lines 39-45).

Furthermore, it is noted that Mueller's reference is used as the second reference in the rejection under 35 USC 103(a).

Therefore the rejection under 35 USC 102(e) and 103(a) cannot be withdrawn and remains in force.



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